

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JOSHUA W. PHARES,)
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Petitioner,)
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vs.) No. CIV-11-1480-C
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JUSTIN JONES, Director,)
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Respondent.)

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Gary M. Purcell, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation on February 17, to which Petitioner has timely objected. The Court therefore considers the matter de novo.

The facts and law are accurately set out in the Magistrate Judge's Report and Recommendation and there is no purpose to be served in repeating them yet again. The only issue raised by Petitioner in his objection that has not been correctly resolved in the Report and Recommendation is a medical record, allegedly previously unavailable, which Petitioner asserts supports his claim for equitable tolling due to head trauma. Once again, however, his claims are refuted by his own evidence, as the record he submits indicates any mental status change lasted mere hours. In short, there is nothing asserted by the Petitioner which was not fully considered and correctly rejected by the Magistrate Judge, and no argument of fact or law is set forth in the objection which would require a different result.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, the Petition for Habeas Corpus is dismissed, as untimely. As no amendment can cure the defect, this dismissal acts as an adjudication on the merits, and a judgment will enter.

IT IS SO ORDERED this 16th day of March, 2012.



ROBIN J. CAUTHRON
United States District Judge